

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Whitney Beber	Team: Squad #9	CCRB Case #: 201803353	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 04/20/2018 10:25 PM	Location of Incident: In front of 86-32 96th Street	Precinct: 102	18 Mo. SOL 10/20/2019	EO SOL 10/20/2019	
Date/Time CV Reported Fri, 04/20/2018 11:55 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/27/2018 1:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Cody Chuchul	20247	959551	102 PCT
2. POM Mark Anderson	27500	950003	102 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Nathan Nelson	02565	948104	102 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mark Anderson	Force: Police Officer Mark Anderson used physical force against § 87(2)(b)	
B.POM Cody Chuchul	Force: Police Officer Cody Chuchul used physical force against § 87(2)(b)	
C.POM Mark Anderson	Abuse: Police Officer Mark Anderson threatened § 87(2)(b) with the use of force.	
D.POM Mark Anderson	Discourtesy: Police Officer Mark Anderson spoke discourteously to § 87(2)(b)	
E.POM Mark Anderson	Force: Police Officer Mark Anderson used physical force against § 87(2)(b)	

Case Summary

On April 20, 2018, Sergeant Nathan Nelson of the 102nd Precinct filed the following complaint on behalf of § 87(2)(b) with the Internal Affairs Bureau. On April 27, 2018, the complaint was received by the Civilian Complaint Review Board.

On April 20, 2018, at 10:25 p.m. § 87(2)(b) was sitting in a car at 86-32 96th Street when Police Officer Cody Chuchul and Police Officer Mark Anderson, both of the 102nd Precinct approached the car. Police Officer Anderson pulled § 87(2)(b) out of the vehicle (**Allegation A: Force**, § 87(2)(g)). As he did this, Police Officer Chuchul grabbed a hold of his jacket, and they all fell to the ground (**Allegation B- Force**, § 87(2)(g)). Once on the ground, Police Officer Anderson told § 87(2)(b) “I’ll break your fucking arms, do you understand me? Put it back motherfucker,” and “I swear to God, I’m going to God I’m going to break your fucking arm” (**Allegations C and D- Threat of Force and Discourtesy**, § 87(2)(g)). Police Officer Anderson punched § 87(2)(b) twice in his upper back and shoulder area (**Allegation E-Force**, § 87(2)(g)). Police Officer Anderson handcuffed § 87(2)(b) and then stood him up.

§ 87(2)(b) was arrested and charged with § 87(2)(b).

Body-worn camera footage was obtained from Police Officer Anderson, Police Officer Thomas Connelly, Police Officer Edmund Kocienda, Police Officer Christopher Harris, Police Officer Edgar Godinez, Police Officer Tracy Brown, and Police Officer Scott Adelman (Board Review 01-07). Video footage was also obtained from surveillance cameras of Innovative Services Technologies (Board Review 08).

Findings and Recommendations

Allegation (A) Physical Force: Police Officer Mark Anderson used physical force against

§ 87(2)(b)

Allegation (B) Physical Force: Police Officer Cody Chuchul used physical force against

§ 87(2)(b)

Allegation (C) Threat of Force: Police Officer Mark Anderson threatened § 87(2)(b) with the use of force.

Allegation (D) Discourtesy: Police Officer Mark Anderson spoke discourteously to § 87(2)(b)

Allegation (E) Physical Force: Police Officer Mark Anderson used physical force against

§ 87(2)(b)

§ 87(2)(b) was interviewed by the CCRB via the video teleconferencing system while he was incarcerated. On June 7, 2018, the undersigned mailed § 87(2)(b) a verification form and a letter asking him to sign and mail the form back. As of the date of this report, the CCRB has not received a verification form signed by § 87(2)(b). On July 5, 2018, Investigator Villa and Investigator Carter went to Riker’s Island where § 87(2)(b) was incarcerated and attempted to meet with him so that he could sign a verification form. § 87(2)(b) refused to meet with the

investigators. § 87(2)(g)

As per Police Officer Anderson, he, Police Officer Chuchul and Sergeant Nelson received a radio run about a male who was inside of a vehicle and who was taking items from said vehicle. When they reached the incident location, a third-party caller pointed to § 87(2)(b) who was inside a vehicle, from across the street. Police Officer Anderson and Police Officer Chuchul ran down the street and saw § 87(2)(b) in the passenger's seat of the vehicle with the door open. Police Officer Chuchul said, "Oh it's § 87(2)(b) and at that point Police Officer Anderson knew who was in the vehicle. A week prior to the incident, there were approximately 10-15 vehicles that were broken into and § 87(2)(b) was one of the perpetrators. Police Officer Anderson also had prior knowledge of § 87(2)(b) having run from and fought with the police.

Police Officer Anderson asked § 87(2)(b) to exit the vehicle approximately two to three times, however, § 87(2)(b) did not comply (Board Review 11). Police Officer Anderson grabbed § 87(2)(b)'s wrist and pulled it behind his back to get him out of the vehicle. § 87(2)(b) took a few steps outside of the vehicle and pulled his body away from Police Officer Anderson. Police Officer Chuchul grabbed part of Police Officer Anderson's jacket and "threw him," as Police Officer Anderson latched onto § 87(2)(b) causing them all to fall to the ground. Police Officer Anderson and § 87(2)(b) wrestled on the ground for approximately 45 seconds to a minute. § 87(2)(b) repeatedly tried to stand up from the ground. Police Officer Anderson told § 87(2)(b) to give him his arms approximately five to six times. § 87(2)(b)'s hands were underneath him, with his fists clenched. § 87(2)(b) was also throwing his elbows out to either side of his body and periodically flailing his arms. Police Officer Chuchul told § 87(2)(b) to stop resisting. After approximately 30 seconds, Police Officer Anderson placed § 87(2)(b)'s arm in an arm bar which he described as bringing § 87(2)(b)'s bent arm behind his back, while his own arm was underneath § 87(2)(b)'s. Police Officer Anderson stated that § 87(2)(b) tried to raise his head and that Police Officer Chuchul placed his knee on § 87(2)(b)'s head to prevent him from jerking his head back. Police Officer Anderson then punched § 87(2)(b) twice in his upper back and shoulder area to gain compliance. After that, § 87(2)(b) provided Police Officer Anderson with his arms.

Police Officer Anderson acknowledged telling § 87(2)(b) "I'll break your fucking arms do you understand?" "Put it back motherfucker," and "I swear to God, I'm going to break your fucking arm." At the time Police Officer Anderson made those statements, § 87(2)(b) had not provided his arms and he did not do so after the statements were made. Police Officer Anderson said he made the statements to avoid using any further physical force and to gain compliance.

Police Officer Chuchul's statement § 87(2)(g)

§ 87(2)(b) When they approached the vehicle in which § 87(2)(b) was sitting, both officers issued multiple commands for § 87(2)(b) to put his hands up. At no point was § 87(2)(b) asked to step out of the vehicle. Police Officer Chuchul and Police Officer Anderson grabbed § 87(2)(b) and pulled him from the vehicle. Police Officer Chuchul grabbed § 87(2)(b)'s shirt and right arm. The officers and § 87(2)(b) tripped and landed on the ground. Police Officer Chuchul acknowledged that Police Officer Anderson punched § 87(2)(b) in his shoulder area.

Sergeant Nelson also acknowledged that Police Officer Anderson punched § 87(2)(b) in his upper shoulder and back area (Board Review 10). Sergeant Nelson stated that prior to his CCRB interview he reviewed Police Officer Anderson's body worn camera footage and heard Police Officer Anderson say that if § 87(2)(b) did not give him his arm, he would break it. Sergeant Nelson did not remember if Police Officer Anderson referred to § 87(2)(b) as a "motherfucker" at any point during this incident.

Police Officer Anderson's body-worn camera footage begins with the audio: "I'll break your fucking arms, do you understand?" Put it back motherfucker," and "I swear to God, I'm going to break your fucking arm," (Board Review 15). There are no visuals when these statements are made.



201803353_20180821_1551_DM.mp4

Patrol Guide Procedure section 221-01 states that a member of service will only use the reasonable force necessary to gain control or custody of a subject (Board Review 12). The section also states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person or to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. To determine whether the use of force is reasonable officers should consider the actions taken by the subject, the duration of the action, whether the subject is attempting to evade arrest by flight, whether the subject is actively resisting custody, and the subject's violent history.

§ 87(2)(g)
[Redacted text block]

§ 87(2)(g)
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§ 87(2)(g)
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§ 87(2)(g)

Patrol Guide section 203-09 requires that NYPD officers be “courteous and respectful” in their public conduct (Board Review 13).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 14).
- Police Officer Chuchul has been a member of service for two years and has been a subject in three CCRB complaints in two prior complaints and three allegations, none of which were substantiated. § 87(2)(g).
- Police Officer Anderson has been a member of service for seven years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- On August 21, 2018, a Notice of Claim was requested from the Comptroller’s Office. The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date